



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Garvey Precision Machine, Inc.

File: B-260403

Date: February 21, 1995

DECISION

Garvey Precision Machine, Inc. protests the award of a contract to any other offeror under request for proposals No. N00102-95-R-0208 issued by the Department of the Navy. Garvey contends that both the rejection of its offer and the award to a higher-priced offeror are improper.

The Navy found Garvey not responsible and ultimately referred the matter to the Small Business Administration (SBA) for the possible issuance of a certificate of competency (COC). The SBA denied the COC application; this protest followed.

The Small Business Act, 15 U.S.C. § 637(b)(7) (1988), gives the SBA, not our Office, the conclusive authority to review a contracting officer's determination that a small business is not responsible. Our Office limits review of the denial of a COC to instances in which the protester's submission indicates that SBA action on a referral may have been taken fraudulently or in bad faith or that the SBA failed to consider vital information bearing on the protester's responsibility. Spheres Co., B-225755, June 5, 1987, 87-1 CPD ¶ 573. Such circumstances are not present here.

Garvey's contention that an award to a higher-priced offeror is improper is without merit. The law requires that an offeror be found responsible before award can be made to it. Since Garvey was found nonresponsible it is not in line for award and its low price therefore is of no consequence.

The protest is dismissed.

A handwritten signature in cursive script, reading "Ronald Berger".

Ronald Berger
Associate General Counsel